

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.21002 OF 1999

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Dated: 22nd August, 2005.

Between :

V.N.Rao

... Petitioner

and

1. The Industrial Tribunal-cum-Labour Court, Warangal,

Rep. by its Presiding Officer, and another

... Respondents

ORDER:

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This writ petition is filed by the Workman being aggrieved by the award made in I.D.No.29 of 1995, dated 21-01-1999, on the file of the Industrial Tribunal-cum-Labour Court, Warangal, insofar as denying the continuity of service, back wages and attendant benefits while granting the relief of fresh appointment as Conductor.

2. It is the case of the petitioner that he was appointed as a Conductor into the services of the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C) in the year 1988. While so, his services were terminated with effect from 06-12-1994 on the ground that he has committed certain cash and ticket irregularities while conducting the bus bearing No.AEZ-3137 on the route from Cherla to Bhadrachalam. According to the second respondent-Management, the petitioner failed to collect fare and issue tickets to 11 passengers in two batches (6+5) who boarded the bus at Gangolu and found alighting at Nadikuda, ex-stages 5 to 5/4. Admittedly, this is a case where the petitioner-Workman has not collected any

amount from the said 11 passengers. There was some language problem of the passengers under charge who wanted to get down the bus in between the stages i.e. stage Nos.5 and 5/4. Therefore, no tickets were issued to them. However, when the check took place, the TTIs got issued tickets of Re.1-50 paise each. The petitioner submitted an explanation stating that there was language problem with 11 passengers and they wanted to get down the bus in between ex-stages 5 and 5/4 and therefore, no money was collected from them and no tickets were issued to them. The Labour Court also noticed that the TTIs made the petitioner to collect requisite fare of Re.1-50 paise each and obtained T.P.T.Nos.767/302874 to 884 of Re.1-50 paise denomination i.e. 11 tickets. The passengers also stated the same thing. The passengers never asserted that they have paid fair and the Conductor failed to issue tickets. Further, the past conduct of the petitioner-Workman was unblemished. In spite of this, the Labour Court came to the conclusion that the charges are proved and the petitioner-Workman is entitled for only appointment as a fresh Conductor and thereby denied the continuity of service, back wages and other attendant benefits.

3. The learned Counsel for the petitioner submits that in spite of the fact that past service of the petitioner-Workman was unblemish and misconduct is not worth the name the check had taken place in between the stages and when there was some language problem (the passengers being Oriyas), there was some delay and in fact, they were getting down to catch a different bus in between ex-stages 5 and 5/4. Therefore, absolutely, there was no misconduct on the part of the petitioner-Workman. The Labour Court ought to have granted other benefits also while granting fresh appointment.

4. I am in full agreement with the submissions made by the learned Counsel for the petitioner. This being the first misconduct on the part of the petitioner and the misconduct was trivial in nature, the Labour Court has not properly exercised its powers vested under Section 11A of the Act, even assuming that the charges are proved in full. Therefore, granting of only relief of fresh appointment and denying the other benefits is harsh and disproportionate. I am of the opinion that the petitioner is also entitled for continuity of service for the purpose of seniority etc.

5. In the result, the award passed by the Labour Court is modified to read as under: “The second respondent-Management is directed to reinstate the petitioner-Workman into service with continuity of service and without any back wages including notional increments.”

6. The writ petition is allowed to the extent indicated above. No order as to costs.

C.V. RAMULU, J

22nd August, 2005.

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